

Heber City Board of Adjustment
Meeting date: July 6, 2016
Report by: Anthony L. Kohler

Re: Merrill Variance at 1670 South Daniel Road

The petitioner's property was annexed into Heber City about 16 years ago into the I-1 Industrial Zone. The property consists of storage sheds and outdoor storage that were developed in the county. The petitioner intends to replace the outdoor storage with storage buildings. The city's standards for street improvements, setbacks, landscaping, and fencing differ from Wasatch County's standards which is making it difficult for the petitioner to construct something similar to the original plan for the property.

As shown on the attached site plan, the petitioner intends to construct 4 future buildings, Building C (10,000 square feet), Building N (13,500 square feet), Building O (10,800 square feet), and Building P (8,100 Square feet). The intended locations for the future buildings align with existing buildings on the property to the west and to the north.

The city code requires street frontage to be improved to city standard with curb, gutter, sidewalk, asphalt, and utilities within a 72 foot right of way as per Section 17.38.030 and 17.40 of the Municipal Code. This likely requires dedication of additional right of way and the moving of the existing chain-link fence. A couple of years ago the city increased the width of the asphalt along Daniel Road, but this portion of the street still lacks curb, gutter, and sidewalk.

The I-1 Industrial Zone requires a 10 foot wide landscaped berm along all street frontages and a 30 foot setback from all public street right of way lines. Each building also needs sufficient driveway width for circulation of vehicles; generally, a minimum of 20 feet is required by fire code, though Building A has approximately 24 feet of asphalt width adjoining Daniel Road and most of the site exceeds the fire code standard driveway widths.

Given the requirement to dedicate property for the curb, gutter, and sidewalk along Daniel Road, and the requirement for a 30 foot setback and 10 feet of landscaping along the street, the petitioner cannot build out the site with the buildings sized or located as originally intended. In order to construct as originally intended, there would need to be a decrease to the width of required landscaping and/or a decrease to the minimum required front setback.

Additionally, the code requires for Commercial Storage Sheds, the building elevation facing a public right-of-way shall have multi-pitched roof lines through the use of dormers and gables, or the like, whether real or false facade. And the code requires the planting of street trees along street frontages. The petitioner, as I recall, would like to construct the buildings similar to established buildings on the site without dormers and street trees to match the rest of the site.

The applicable code sections of Heber City Code include 18.44.040 regarding the setback and landscaping, and Section 18.44.060 A. and D. for the street trees and multi-pitch roof line requirements. For a variance to be granted, the Board must deliberate on the findings of Utah

Code, Section 10-9a-702 shown below. The Board may impose reasonable conditions with a variance.

18.44.040 Setback Requirements

In the I-1 Zone, all buildings shall be set back at least thirty (30) feet from any public street right-of-way line. A ten (10) foot wide landscaped berm is required along all public street right-of-way frontages. In the event of competing set back requirements as a result of building code restrictions, the most restrictive shall govern.

18.44.060 Special Provisions

- A. Trees shall be planted along all street frontages. Trees should be planted at least one for every fifty (50) feet of street frontage.
- B. All storage doors, entrances into storage and warehousing, and parking in storage and warehouse developments shall be accessed from internal private streets and driveways.
- C. All storage and warehouse developments shall be fenced in a manner which will provide adequate security and a deterrent from public access.
- D. For Commercial Storage Sheds, the building elevation facing a public right-of-way shall have multi-pitched roof lines through the use of dormers and gables, or the like, whether real or false facade.

Utah State Code 10-9a-702. Variances.

- (1) Any person or entity desiring a waiver or modification of the requirements of a land use ordinance as applied to a parcel of property that he owns, leases, or in which he holds some other beneficial interest may apply to the applicable appeal authority for a variance from the terms of the ordinance.
- (2) (a) The appeal authority may grant a variance only if:
 - (i) literal enforcement of the ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the land use ordinances;
 - (ii) there are special circumstances attached to the property that do not generally apply to other properties in the same zone;
 - (iii) granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zone;
 - (iv) the variance will not substantially affect the general plan and will not be contrary to the public interest; and
 - (v) the spirit of the land use ordinance is observed and substantial justice done.
- (b) (i) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an

unreasonable hardship unless the alleged hardship:

- (A) is located on or associated with the property for which the variance is sought;
and
 - (B) comes from circumstances peculiar to the property, not from conditions that are general to the neighborhood.
- (ii) In determining whether or not enforcement of the land use ordinance would cause unreasonable hardship under Subsection (2)(a), the appeal authority may not find an unreasonable hardship if the hardship is self-imposed or economic.
- (c) In determining whether or not there are special circumstances attached to the property under Subsection (2)(a), the appeal authority may find that special circumstances exist only if the special circumstances:
- (i) relate to the hardship complained of; and
 - (ii) deprive the property of privileges granted to other properties in the same zone.
- (3) The applicant shall bear the burden of proving that all of the conditions justifying a variance have been met.
- (4) Variances run with the land.
- (5) The appeal authority may not grant a use variance.
- (6) In granting a variance, the appeal authority may impose additional requirements on the applicant that will:
- (a) mitigate any harmful affects of the variance; or
 - (b) serve the purpose of the standard or requirement that is waived or modified.

Daniels Self Storage Site



Approximate location of required setback, right of way and landscaping

